

REMARKS

In the application as amended herein, Claims 49-68 are currently pending. Claims 49, 52, 55, 57, 59, 62, 64 and 65 have been amended and Claim 50 has been rewritten in independent format. Applicant has reviewed the Final Office Action of November 14, 2003. In light of these amendments and the below comments, reconsideration is earnestly requested. Applicant believes that the combination of claim limitations as recited in the amended application are not disclosed or taught by any of the cited references, alone or in combination.

CLAIMS REJECTION UNDER 35 U.S.C. § 112

The Examiner rejected Claim 52 under 35 U.S.C. § 112, first and second paragraphs. Applicant has amended Claim 52; and, accordingly requests removal of this rejection.

CLAIMS REJECTION UNDER 35 U.S.C. § 102

The Examiner rejected Claims 49, 51, 52, and 54-68 under 35 U.S.C. § 102(b), alleging anticipation by Streiff et al. As the Examiner is aware, anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. *In re Sun*, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). "In addition, the prior art reference must be enabling." *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. *In re Donohue*, 766 F.2d 531,

533, 226 USPQ 619, 621 (Fed. Cir. 1985). Streiff et al. fails to provide, expressly or inherently, an enabling disclosure of each and every element of the invention as defined by the amended claims. Namely, Streiff et al. fails to disclose at least:

- a "[wing]...configured to shed a vortex at an edge of the second end of the [wing]", and
- "the nozzle ... located adjacent the edge of the second end of the [wing] such that the nozzle discharges the mixture into the vortex in the gas stream at a point wherein the vortex is shed."

Both of these element appear in independent Claims 49, 58, and 68.

With regards to the first element, Examiner alleges that Streiff et al.'s deflector 30 discloses such a wing. Streiff et al. describes these deflectors 30 as being configured to create "turbulent flow cones 26, 27 which are deflected in the directions 16, 17 and which cross one another in staggered relationship." See column 3, lines 3-6. Streiff et al. does not disclose or even fairly suggest that such deflectors 30 can shed a vortex. At best, Streiff et al.'s deflectors 30 are configured to create turbulent flow with substreams for mixing. As such, the lack of the enabling disclosure of the first element, alone, defeats the anticipation argument.

With regards to the second of the above elements and reference to Applicant's Claim 49, Examiner alleges that one could use Streiff et al's configuration of FIG. 9 with flow in the opposite direction Z of that disclosed, thereby allowing the

dispensing tubes 21 on the second end of the deflector 30. Such an argument is contrary to Streiff et al.'s specification and associated figures. Streiff et al. consistently shows the deflectors 30 (with associated dispensing tubes 21) as pointing in relation to flow Z - tubes 21 being consistently shown as upstream of the deflectors 30. For example, Figures 1b and 10 show a cross section of the flow with the specification stating: "projection FZ of the two deflectors in the flow direction Z" (Column 3, lines 6-8) and "their total area FZ which is projected in the Z direction" (Column 4, lines 28-31). Additionally, Figures 1A, 3C, 3D, 5, 7, 8A, 8B, 9A, 9B, 11D, and 12 show a flow Z and a configuration with the tubes 21 upstream of the deflectors 30. Examiner's suggested configuration is not described, explicitly or inherently, within Streiff et al. or any other reference. Additionally, such a configuration is not enabling to the public absent the Applicant's disclosure in the current Application.

With reference to the second element above and Claims 49, 58, and 68, the Applicant questions where Streiff et al. discloses "discharg[ing] the mixture into the vortex in the gas stream at a point wherein the vortex is shed." For example, with reference to Streiff et al.'s Figure 9, where is it shown or described that a discharge is at point where the vortex is shed? The Applicant respectfully submits that such is not shown or described, expressly or inherently within Streiff et al. For these reasons, the Applicant respectfully requests withdrawal of the 102(b) rejections and allowance of independent Claims 49, 58, and 68. While the remaining dependent Claims, 51-58 and 59-

67 are believed to have additional points of novelty, the allowance of the independent Claims 49, 58, and 68 should make the dependent Claims 51-58 and 59-67 also allowable.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Examiner rejected Claim 53, alleging obviousness over Streiff et al. in view of Althaus et al. As Claim 49 is believed to be allowable, dependent Claim 53 should also be allowable.

ALLOWABLE SUBJECT MATTER

Claim 50 was objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent format. Claim 50 has been rewritten in independent format and is therefore allowable.

CONCLUSION

Applicant respectfully submits that this Application is in condition for allowance, and Applicant earnestly seeks such allowance of all claims currently pending in the application for the reasons stated herein and further requests that the Examiner allow Claims 49-68. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicant's attorney at 214.979.3093. Applicant, through its attorney, stands ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 23-3189 of Hunton & Williams (Dallas) and reference Attorney Docket No. 82274.472023. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicant respectfully requests that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

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AMENDMENT AND RESPONSE
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This is intended to be a complete response to the Office Action mailed November 14, 2003.

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